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7 *In pro per*

8 JOHN C. BROWN (State Bar # 195804)
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15 Attorneys for Defendant, STEVEN T. KIRSCH

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HOWARD HERSHIPS,

Plaintiff,

vs.

THE SUPERIOR COURT OF CALIFORNIA
COUNTY OF CALIFORNIA, *et al.*,

Defendants.

Case No.: C 06-CV-6644 JF/RS

**NOTICE OF MOTION AND MOTION
BY STEVEN T. KIRSCH TO DISMISS
COMPLAINT (28 U.S.C. §1915(e)(2)(B))**

Date of Motion: September 5, 2008
Time of Motion: 9:00 a.m.
Ctrm: #3, 5th Floor
Judge: The Hon. Jeremy Fogel
Case Filed: October 25, 2006
Trial date: None

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PLEASE TAKE NOTICE that on September 5, 2008, at 9:00 a.m. or as soon thereafter as
the matter may be heard in Courtroom 3 of the above-entitled Court, located at 280 South 1st
Street, San Jose, California, defendant STEVEN T. KIRSCH will and hereby does move the

1 Court to dismiss with prejudice plaintiff HOWARD HERSHIPS' Complaint pursuant to 28 U.S.C.
2 §1915(e)(2)(B) based on the fact that Herships has filed a frivolous lawsuit against Kirsch. Kirsch
3 files this motion for hearing on September 5, 2008 in addition to his Motion to Dismiss (F.R.C.P.
4 12(b)(6)) filed on July 18, 2008.

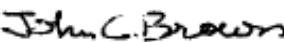
5 Specifically, Herships has filed a Complaint *in forma pauperis*, but his action is frivolous
6 and the supporting allegations are completely baseless, as is apparent from the papers. Because the
7 Court is not required to accept such allegations, the Complaint should be dismissed with prejudice.

8 This motion to dismiss will be based on this Notice of Motion and Motion to Dismiss; the
9 Memorandum of Points and Authorities in Support of Kirsch's Motion to Dismiss; Herships' First
10 Amended Complaint; the pleadings, records, and papers filed herein; and such other and further
11 oral and documentary evidence and legal memoranda as may be presented at or by the hearing on
12 these issues.

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14 Dated: August 1, 2008

REDENBACHER & BROWN, LLP

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By: _____

16 JOHN C. BROWN
17 Attorneys for defendant
18 STEVEN T. KIRSCH

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